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REMARKS

Favorable reconsideration and allowance of the present application are

respectfully requested in view of the following remarks. Claims 1-35 were

pending prior to the Final Office Action. Claims 6, 14, and 22 have been

canceled and claims 28-32 have been withdrawn from consideration. Therefore,

claims 1-5, 7-13, 15-21, 23-27, and 33-35 are not withdrawn and remain

pending. Of these, claims 1, 9, 17, and 35 are independent.

OBJECTION TO THE CLAIMS

The Examiner notes that claims 6-8, 14-16, and 22-24 are proper

multiple dependent claims and refer to other claims (any one of claims 1-5, 9-

13, 17-21, respective) in the alternative only. See Final Office Action, item 2. As

such, the Examiner states he will consider the multiple dependent claims 6-8,

14-16, and 22-24 as dependent claims to independent claims 1, 9, and 17,

respectively.

If the Examiner is asserting that he considers claims 6-8, 14-16, and 22-

24 as only being dependent on only the independent claims 1, 9, and 17,

respectively, Applicant respectfully disagrees. When multiple dependent claims

are presented, the dependency can only be presented in the alternative. See

M.P.E.P. 608.01(n); 37 CFR 1.75(c). As admitted in the Final Office Action, the

multiple dependent claims are proper.

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When proper multiple dependent claims are presented, the claims must

be examined accordingly. As an example, since claim 7 properly recites "any

one of claims 1 to 5," then claim 7 must be examined as five different claims

where one claims depends from claim 1, second from claim 2, and so on. If the

Examiner's assertion is taken, then there is no distinction between multiple

dependent claims and a claim that depends from a single claim. Clearly, this is

not the intention.

Applicant respectfully request that the objection to the claims be

withdrawn.

ELECTION/RESTRICTION

In the Office Action, the Examiner required a Restriction between the

following groups of claims (See Final Office Action, item 3):

• Group 1: claims 1-27 and 33-35 as allegedly being drawn to

"distributed data processing: client/server," classified in class 709,

subclass 203; and

• Group 2: claims 28-32 as allegedly being drawn to "computer-to-

computer data transfer regulating: transfer speed regulating,"

classified in class 709, subclass 233.

The Examiner required an election to be made between the two groups.

Upon telephonic discussion with the Examiner and Supervisor, it was

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determined that a proper course of action should have been for the Examiner

to issue Election by Original Presentation and withdraw Group 2 claims from

consideration. Therefore, Applicant considers claims 1-5, 7-13, 15-21, 23-27,

and 33-35 to be pending.

REJECTION - ARIAS, MOGUL

Claims 1-2, 9-10, 17-18, 25-27, and 35 stand rejected under 35 U.S.C.

§ 102(b) as allegedly being anticipated by Arias (USP 5,724,514). See Final

Office Action, items 6-10. Also, claims 3-8, 11-16, and 19-24 stand rejected

under 35 U.S.C. § 103(a) as allegedly being unpatentable over Arias in view of

Mogul et al. (USP 6,243,761 B1, hereinafter "Mogul"). See Final Office Action,

items 11-15.

In this Reply, independent claims 1, 9, and 17 are amended to include

the feature of canceled claims 6, 14, and 22, respectively. Thus, Applicant

considers all pending claims 1-5, 7-13, 15-21, 23-27, and 33-35 as allegedly

being unpatentable over Arias in view of Mogul. As such, Applicant

respectfully traverses.

For a Section 103 rejection to be proper, a prima facie case of

obviousness must be established. See M.P.E.P. 2142. One requirement to

establish prima facie case of obviousness is that the prior art references, when

combined, must teach or suggest all claim limitations. See M.P.E.P. 2142;

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M.P.E.P. 706.02(j). Thus, if the cited references fail to teach or suggest one or

more elements, then the rejection is improper and must be withdrawn.

In this instance, Arias fails to teach or suggest each and every claimed

element. For example, independent claim 1 recites, in part a method of

controlling image data transfer between a server storing image data and a

client connected to the server via a network and receiving the image data by

accessing the server, the method comprising the step of "transferring to the

client a message notifying that the number of the image data sets to be

transferred is 0 in the case where the number of the image data sets to be

transferred has been determined to be 0." Contrary to the Examiner's

assertion, Arias cannot be relied upon to teach or suggest at least this recited

feature.

In the Final Office Action, the Examiner alleges that column 4, lines 14-

18 and 29-31; column 6, lines 55-59; and Figures 7A-7C of Arias disclose this

feature. Column 4, lines 14-18 of Arias state, "It is therefore preferable to

determine the effective data transfer rate for each primary data object obtained.

Based on this information, the system may dynamically select between

methods of obtaining data objects either sequentially or concurrently." There is

nothing in this statement that one can reasonably infer a transfer of a message

takes place to notify the client that the number of image data sets to be

transferred is 0.

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Column 4, lines 29-31 of Arias state, "The effective transfer rate is

compared to a predetermined value. A number of transfers to perform

concurrently is determined based upon the comparison." Again, there is

nothing in this statement that one can reasonably infer a transfer of a message

takes place to notify the client that the number of image data sets to be

transferred is 0.

Column 6, lines 55-59 of Arias refer to Figures 7A-7C to indicates steps

to obtain secondary data objects sequentially (Figure 7B) or concurrently

(Figure 7C). Figure 7A and corresponding description merely discloses that a

primary object is obtained. Based on the transfer rate of the primary object, it

is determined whether the secondary objects should be retrieved sequentially

(for slow connections) or concurrently (for fast connections). Once again, there

is nothing disclosed in Figures 7A-7C and corresponding descriptions that one

can reasonably infer a transfer of a message takes place to notify the client that

the number of image data sets to be transferred is 0.

Indeed, the entirety of Arias cannot be relied upon to teach or suggest

this feature. Mogul has not been, and indeed cannot be, relied upon to correct

for at least the above-noted deficiency of Arias. Therefore, independent claim 1

is distinguishable over the combination of Arias and Mogul.

Independent claim 9 recites, in part an apparatus for controlling image

data transfer between a server storing image data and a client connected to the

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server via a network and receiving the image data by accessing the server, the

apparatus comprising "means for sending a message to the client notifying that

the number of the image data sets is 0 in the case where the number of the

image data sets has been determined to be 0." In the Final Office Action, the

Examiner also alleges that column 4, lines 14-18 and 29-31; column 6, lines

55-59; and Figures 7A-7C of Arias disclose this feature.

Contrary to the Examiner's allegation, it has been amply demonstrated

that Arias cannot be relied upon to disclose the feature of means for sending a

message to the client notifying that the number of the image data sets is 0 in

the case where the number of the image data sets has been determined to be 0.

Also, Mogul has not been, and indeed cannot be, relied upon to correct for at

least the above-noted deficiency of Arias. Therefore, independent claim 9 is

distinguishable over the combination of Arias and Mogul.

Independent claim 17 recites, in part a computer-readable recording

medium storing a program to cause a computer to execute a method of

controlling image data transfer between a server storing image data and a

client connected to the server via a network and receiving the image data by

accessing the server, the program comprising the procedures including

"transferring to the client a message notifying that the number of the image

data sets to be transferred is 0 in the case where the number of the image data

sets to be transferred has been determined to be 0." In the Final Office Action,

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the Examiner also alleges that column 4, lines 14-18 and 29-31; column 6,

lines 55-59; and Figures 7A-7C of Arias disclose this feature.

Contrary to the Examiner's allegation, it has been amply demonstrated

that Arias cannot be relied upon to disclose the feature of transferring to the

client a message notifying that the number of the image data sets to be

transferred is 0 in the case where the number of the image data sets to be

transferred has been determined to be 0. Also, Mogul has not been, and

indeed cannot be, relied upon to correct for at least the above-noted deficiency

of Arias. Therefore, independent claim 17 is distinguishable over the

combination of Arias and Mogul.

Claims 2-5, 7-8, 10-13, 15-16, 18-21, 23-27, and 33-35 depend from

independent claims 1, 9, and 17 directly or indirectly. For at least the reasons

stated with respect to the independent claims, these dependent claims are also

distinguishable over the combination of Arias and Mogul.

Applicant respectfully requests that the rejection of claims 1-5, 7-13, 15-

21, 23-27, and 33-35 based on Arias and Mogul be withdrawn.

CONCLUSION

All objections and rejections raised in the Office Action having been

addressed, it is respectfully submitted that the present application is in

condition for allowance. Should there be any outstanding matters that need to

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be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$120 is attached hereto.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH &, BIRCH, LLP

By:

Michael K. Mutter Reg. No. 29.680

MKM/HNS 2091-0230P

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

Attachment(s):